**STATE OF NEW JERSEY**
**BOARD OF PUBLIC UTILITIES**

# IN THE MATTER OF THE PETITION OF NUI UTILITIES, INC. (d/b/a ELIZABETHTOWN GAS COMPANY) AND AGL RESOURCES INC. FOR APPROVAL UNDER N.J.S.A. 48:2-51.1 AND N.J.S.A. 48:3-10 OF A CHANGE IN OWNERSHIP AND CONTROL

**BPU DOCKET No. GM0407_________**

**JULY 30, 2004**

**TESTIMONY OF**

**PAULA G. ROSPUT**

**ON BEHALF OF**

**NUI UTILITIES, INC.**
**AND**
**AGL RESOURCES INC.**

**Q. Please state your name and position.**

A. My name is Paula G. Rosput. I am the Chairman, President and Chief Executive Officer of AGL Resources Inc. ("AGLR").

**Q. What is the purpose of your testimony?**

A. The purpose of my testimony is to introduce AGLR and explain AGLR's experience operating gas utilities and AGLR's corporate governance policies. I will also explain the business rationale for AGLR's acquisition of NUI Corporation ("NUI") and its subsidiary NUI Utilities, Inc. ("Utilities") (d/b/a Elizabethtown Gas Company) ("ETG") and provide an overview of how the acquisition will benefit ETG's customers. The direct testimony of Mr. Richard T. O'Brien, Executive Vice President and Chief Financial Officer of AGLR and Mr. Kevin P. Madden, Executive Vice President of Distribution and Pipeline Operations of AGLR set forth in greater detail the operational and financial benefits of the acquisition. I will also describe the structure for the Board of Directors and certain Acceptable Order conditions for which approval is necessary for the acquisition to go forward. Finally, I will discuss the need for expedited approval of the proposed acquisition.

## OVERVIEW OF AGLR

**Q. Please describe AGLR.**

A. AGLR was formed in 1996 as a Georgia holding company for the purpose of holding Atlanta Gas Light Company, Chattanooga Gas Company, and various other energy-related subsidiary and affiliate companies. Subsequently, in 2000, simultaneous with its purchase of Virginia Natural Gas, Inc., AGLR became a registered public utility holding company pursuant to the Public Utility Holding Company Act of 1935 ("PUHCA"). Under PUHCA, AGLR's accounting, financial and securities practices are comprehensively regulated by the Securities and Exchange Commission. The company is also subject to regulation by federal agencies such as the Federal Energy Regulatory Commission and the U.S. Department of Transportation, in addition to being comprehensively regulated by the state public utility commissions in Georgia, Virginia and Tennessee. There are no outstanding fines or significant actions pending against the company by any of these agencies.

AGLR has an equity market capitalization of approximately $1.9 billion and an enterprise value of nearly $3 billion. AGLR is traded on the New York Stock Exchange (ticker: ATG) and the company is solidly positioned to maintain its investment-grade credit ratings. AGLR was one of the few energy companies to receive a credit rating upgrade (by Fitch Ratings) in 2003. Upon announcement of this transaction, AGLR was placed on credit "watch" by the major credit rating agencies, which is customary, but this action is not expected to result in any adverse ratings actions.

**Q.** **Please describe AGLR's corporate governance policies and principles.**

A. Much has been written in the wake of the Enron debacle about corporate responsibility. But prior to this period, AGLR had taken a number of steps to strengthen its governance processes and procedures, including the formation of Board of Directors' committees for risk management and corporate governance, setting clearly established internal rules for delegation of authority, and implementing a strong set of policies on ethics and honesty for all employees.

Since the implementation of new rules by the New York Stock Exchange and the enactment of the Sarbanes-Oxley legislation, much of our governance work has been focused on strict compliance with these regulations. I will discuss some of the details of our compliance below. But equally important is the "tone at the top," aspect of compliance – in other words, what does the leadership of a company say about the company's values and does the leadership act according to what it says? In this vein, we adopted a set of values for our organization. There are four values: honesty, value-seeking, generosity of spirit and operating inside the lines. The last value is one that gives deeper meaning to the role of honesty in our business dealings. This value is intended to capture the idea that we will not engage in any "edgy" behaviors and that we will live well inside of the rules, rather than stretching them for our purposes. To put it simply, we operate for the long-run. We do not engage in – nor will we condone – business activities that take liberty with the regulations and rules under which we are required to operate.

Another aspect of these values is manifested in our commitment to providing the investment community and our regulators with information that is accurate, timely and as transparent as possible. AGLR believes that financial and operating visibility and transparency are of paramount importance in making an informed investment decision. With that in mind, AGLR will always strive to provide financial information that fairly and accurately reflects the results of our operations and that is consistent with current reporting standards and policies, including U.S. Generally Accepted Accounting Principles (GAAP).

AGLR has an independent Board of Directors to oversee the management of the company. We feel strongly that the purpose of the Board of Directors is not just to discharge its legal obligations to oversee the company, but also to advise us on strategic matters. We respect and take its advice, which is drawn from its members' vast business experience, in all major industries of the U. S. economy. I am the only member of our eleven-member Board of Directors who is not an independent, outside director. The ten other members of the Board are independent, outside directors. The independent members of the Board meet regularly without the presence of management, and they meet with management without my presence. These private meetings are intended to ensure that the Board receives the unvarnished version of the facts in every situation. Furthermore, the charters of each of our Board committees clearly establish their respective roles and responsibilities, including the independence of outside auditors and consultants, who are retained by the Board directly. The charters may be found on AGLR's website at www.aglresources.com at the section entitled, "Investor Information - Corporate Governance - Highlights."

**Q. Does AGLR maintain a policy with respect to the independence of auditors?**

A. Yes. As mentioned previously, the Board's Audit Committee has implemented policies consistent with the newly-enacted corporate reform laws for auditor independence, and AGLR's independent auditors PricewaterhouseCoopers LLP report directly to the Audit Committee.

**Q. Are there any other aspects of AGLR's corporate governance policies that you would like to discuss?**

A. Yes. AGLR has also adopted a Code of Business Conduct. All employees must confirm annually, in writing, their acceptance of the Code of Business Conduct. We also have an insider trading policy, to which all directors and employees, including our key corporate decision makers, must strictly adhere. To foster an environment of compliance, AGLR has, for years, maintained a hotline available for employees to anonymously and confidentially report any questionable practices, actions or activities at the company. We also survey our employees in the accounting and control area of the company periodically to ensure that they are satisfied with the control environment and our practices. We also survey employees annually for a broad set of reasons, but to test our compliance environment is among them. We try very hard to make the atmosphere of the company one where employees know that dishonesty or questionable practices will not be tolerated and where there is a strong sense that management at all levels is committed to what we call "a fair game" for customers, employees, and the public at large.

**Q. Does AGLR have a preference in its strategy for regulated businesses versus unregulated businesses?**

A. Yes. AGLR's business philosophy is predicated on the fact that AGLR is principally a regulated business. As Mr. O'Brien's testimony will discuss in more detail, the vast majority of AGLR's income and earnings is produced by AGLR's regulated gas utility businesses. We respect regulation and the role it plays in a capital-intensive business such as gas distribution. Our fundamental strategy is to grow our regulated utility business and modestly enhance the earnings from our utilities through closely related energy and infrastructure businesses.

The enhancement we seek is a means by which we can differentiate ourselves as the kind of company that looks for all opportunities to create value for shareholders and customers. We seek "modest" enhancement because it is not our goal to create a "growth engine" through unregulated businesses. Rather, it is a recognition that the companies in the industry who have the best access to capital over long periods of time have earnings that are better than the peer group averages.

This acquisition is also consistent with our business principle of being a superior operator of regulated assets. This business model can only be successful over a long period of time if we do two things: (1) provide safe, reliable and reasonably-priced services; and (2) maintain collaborative and constructive regulatory relationships. Every day, we have to earn the right to maintain and grow our franchise – both in the eyes of our customers and the eyes of those public officials responsible for regulating us. Forging collaborative and constructive relationships with regulators in Georgia, Tennessee and Virginia has made all the difference for AGLR over the past few years. We are looking forward to building the same kinds of quality relationships and constructive colloquy with the Commissioners and Staff in

New Jersey, as well as Florida and Maryland. Because we are a multi-state company, we need to have cooperative relationships not just with our regulators, but we need regulators to cooperate with one another. To facilitate this cooperation, we create standardized and transparent reporting for all operating and financial aspects of our business.

**Q. Please describe AGLR's experience running natural gas utility companies.**

A. AGLR owns and operates natural gas utility operations in Georgia (Atlanta Gas Light Company), Virginia (Virginia Natural Gas, Inc.) and Tennessee (Chattanooga Gas Company). In these three states, AGLR serves nearly 1.9 million natural gas customers. AGLR maintains utility offices and field operations in Georgia, Virginia and Tennessee, plus offices for our related energy and infrastructure businesses in Houston, Texas and Phoenix, Arizona. The company owns more than 35,000 miles of natural gas pipeline, four liquefied natural gas (LNG) facilities and two propane facilities. AGLR is experienced in both mild and cold climates, from Valdosta, Georgia (at the Florida border) to the mountains of Appalachia, and has experience serving both urban and rural areas. AGLR's website is www.aglresources.com; the corporate site contains links to websites for the company's three utilities (www.atlantagaslight.com; www.chattanoogagas.com; and www.virginianaturalgas.com). We are among the largest gas distributors in the country, the single largest operator of LNG peaking facilities, and consistently one of the top quartile operators according to industry metrics. To our knowledge, our pipeline replacement program in Georgia is the largest gas distribution capital improvement program ongoing in the United States today.

**Q. Please briefly describe each of the gas utility companies owned by AGLR.**

A. Atlanta Gas Light Company ("AGLC") is Georgia's oldest corporation, having been chartered in 1856. AGLC serves approximately 1,547,834 customers throughout the state of Georgia. AGLC became a "pipes-only" distribution company in 1998 when it elected to open its territory to competition pursuant to the Georgia Natural Gas Competition and Deregulation Act of 1997. Natural gas marketers certificated by the Georgia Public Service Commission now serve customers on AGLC's system. Although marketers' prices are market-based, AGLC's rates for distribution service remain regulated by the Georgia Public Service Commission.

In 1988, AGLR acquired Chattanooga Gas Company ("CGC"), which serves 60,113 customers in the Chattanooga and Cleveland Tennessee areas. CGC is regulated by the Tennessee Regulatory Authority. Following the acquisition, AGLR made substantial improvements to the CGC system which had been previously owned by a privately-held industrial company. Since that time, the safety and the reliability of that system has improved markedly from its history.

In 2000, AGLR acquired Virginia Natural Gas, Inc. ("VNG"), a public utility serving approximately 253,623 customers in southeastern Virginia. VNG is regulated by the Virginia State Corporation Commission. Customer service and productivity have measurably improved for VNG's customers since then.

**Q. Has AGLR been successful in integrating VNG into its utility operations?**

A. Yes. Integration commenced immediately upon closing of the acquisition of VNG, which was completed in approximately five months after announcement. We had our team in place and operated the system on an integrated basis for the first winter heating season and every winter thereafter. We are in the process of constructing a much-needed propane plant as well as refurbishing an existing plant to be ready for the 2004-05 heating season in Virginia. Reliability is paramount for us and we invest where we need to so that customer service is not compromised.

**Q. Is AGLR active in the communities in which it operates?**

A. We know that, as employees of a financially healthy public utility, we have an obligation of community service. Our core value of "generosity of spirit" is intended to speak to what we ask of each employee. AGLR is a community leader in every major city in which it operates. In 2003, it was honored in Atlanta as the recipient of the Community Volunteer Impact Award, and in Virginia as the recipient of the Corporate Neighbor Award. Our executives lead by example. Virtually every member of the company's leadership team serves on the board of a major community agency. I led the 2002 United Way campaign in metro Atlanta, and will become the Board Chair of both the United Way and the Georgia Chamber of Commerce in 2005 and 2006, respectively. A number of our employees serve on commissions that support state and city governments. We are active in working on economic development in every state. The Company and its charitable foundation donate approximately one percent of net income to non-profit organizations each year.

We have received the feedback from NUI employees and community leaders that this is an area where we can enhance NUI's presence. We intend to embrace NUI's agreement with the New Jersey attorney general to undertake community service with vigor and a seriousness of purpose.

## THE MERGER

**Q. Why is NUI an attractive acquisition candidate?**

A. AGLR had prior interactions and discussions with NUI on asset management and other business opportunities beginning in 2003. As a result, AGLR has, for some time, been familiar with, and has had a good understanding of, NUI's regulated business. When NUI's Board announced, last September, its intention to sell NUI, AGLR saw an opportunity to purchase good utility assets if we were willing to sort out the entanglements associated with holding company activities. AGLR has had a patient and deliberate growth strategy that centers on identifying opportunities where AGLR will be able to leverage its skills in managing utility operations to create value for shareholders and efficiencies for ratepayers. This generally leads us to seek opportunities in urbanized areas along the footprint of our pipeline holdings – namely from east Texas and the Gulf Coast to New York. AGLR's decision to acquire NUI is the culmination of a lengthy process to identify appropriate strategic opportunities in the regulated sphere. For more than one year, during which time AGLR has carefully studied the company, AGLR’s operational due diligence on NUI’s utilities has confirmed that NUI's utility operations and assets are essentially sound. However, the relatively small scale of NUI’s operations has prevented it from investing is some of the availability technology platforms that can improve customer delivery and efficiency.

AGLR firmly believes that the scale of the combined company will serve to allow for rate stability for New Jersey ratepayers. Furthermore, we believe AGLR’s business model will produce efficiencies and allow for sufficient capital to deliver superior service to NUI’s customers. Because of our own geographic spread, we can absorb all four of NUI’s utility operations into our system without disruption, thereby providing a smooth transition for customers in all the states where NUI is doing business. ETG is located in a region where there is strong base usage and where gas is the preferred energy alternative. The addition of ETG will help to balance AGLR’s load profile by adding heat-sensitive load. NUI is also positioned in the geographic footprint where AGLR conducts wholesale asset management operations. This circumstance should lead to getting better use out of expensive pipeline capacity and storage for which ETG is already contracted but which is not being utilized by end-use customers, thus yielding benefits now and as load grows in the future.

Moreover, the fact that ETG and City Gas of Florida are located in urban service areas, and the fact that ETG is expanding in the northwest part of the state plays to our strengths in operating primarily urban franchises in densely populated areas. Our strategy has been to own and optimize natural gas distribution companies within a well-defined and manageable geography. This strategy allows us to deploy our technology platforms in the areas of automated dispatch and work management to improve operations. Today, customers expect prompt, efficiently-delivered service. Technology will play a greatly enhanced role in upgrading utility service to the commercial standard that society has come to expect from all providers. Upon closing, AGLR will be the largest local distribution company, in terms of number of customers, along the entire East Coast of the United States. This improves our scale and allows us to continue our strategy of investment in modernizing technologies, which produces customer service and other benefits for ratepayers.

**Q. Please describe some of the ratepayer benefits of the acquisition.**

A. Under New Jersey law, the Board must consider the acquisition's impact on competition, rates, employees and operations and reliability. Mr. Madden's testimony describes in more detail how the acquisition will benefit ETG's customers in each of these four areas. In short, the acquisition will modernize operations and upgrade service quality to NUI's customers. We believe the acquisition will redound to the benefit of ETG ratepayers in the form of superior quality customer service, including reliability improvements, safety enhancements and operational synergies.

**Q. Will the acquisition impact AGLR's credit rating?**

A. We do not anticipate that the acquisition will have a negative impact on AGLR's credit rating. The proposed acquisition is of manageable size and hence credit neutral to AGLR. AGLR can readily finance this acquisition without significant pressure on the balance sheet or on our credit rating. We recognize that our long-term business success depends on investment-grade credit and equity that the market demands. This transaction is limited in scope and should strengthen our financial performance in the near term.

Moreover, given the success that AGLR has had in successfully integrating VNG into its utility operations within the first full year after closing, AGLR expects the acquisition of NUI to improve our cash flow generation, which is of interest to credit agencies. Mr. O'Brien will elaborate on the financial aspects of the acquisition in his testimony.

**Q. Will AGLR appoint an individual who will reside in New Jersey and be responsible for the day-to-day operations of ETG?**

A. Yes. Mr. Craig G. Matthews, NUI's current CEO, will leave the company at the time of closing. With his departure, AGLR intends to appoint a senior business leader to head ETG who will be located in New Jersey and have responsibility for the day-to-day oversight and operations of the New Jersey utility operations.

**Q. How will the Board of Directors be structured after the acquisition?**

A. After the acquisition, the NUI corporate Board of Directors and the Utilities Board of Directors will dissolve and those responsibilities will be assumed by the AGLR Board of Directors. It is the desire of the AGLR Board to attract a New Jersey resident of significant professional stature and business qualification to our Board. We have previously had two Virginia business leaders join our Board following the VNG acquisition, so our practice would continue with the ETG acquisition. We will also be considering revisions to the charter of our Environmental and Corporate Responsibility Committee to contemplate oversight of the post-acquisition integration of Utilities, with proper recognition of the public interest considerations of the states in which the acquired utilities operate. In addition, it is our Board's practice to hold one Board meeting a year outside of Georgia and invite public and community officials to meet with us so that we can hear first-hand how we are doing in the local area.

**Q. Is the acquisition subject to any special conditions?**

A. Yes. The acquisition is subject to customary closing conditions, including the receipt of all necessary regulatory approvals from federal and state agencies and commissions, approval of NUI's shareholders, the absence of any material adverse effect on NUI's business and approval or the expiration or termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976. In addition, the Merger Agreement provides that any order by the Board approving the proposed acquisition should also approve certain aspects of the transaction. The Acceptable Order Conditions addressing rate and regulatory issues are described in more detail in the Petition and the testimony of Mr. Madden and a description of the acquisition and the conditions related to financial issues are discussed in the testimony of Mr. O'Brien. The acquisition is also subject to conditions relating to the legal actions and investigations that NUI is facing in New Jersey. An Acceptable Order will absolve AGLR and its subsidiaries after closing from any liability associated with the circumstances and transactions addressed in the Final

Report on Focused Audit of NUI, Utilities and ETG in Docket No. GA03030213, presented to the Division of Audits by the Liberty Consulting Group and the Stier Anderson Report. Satisfaction of these conditions is essential if the acquisition is to move forward.

**Q. Are there any Acceptable Order conditions relating to corporate governance?**

A. Yes. Given AGLR's commitment to effective corporate governance and the centrality of AGLR's policies to its core values, the Merger Agreement contains an Acceptable Order Condition that any order approving the acquisition will not impose conditions that may have the effect of requiring AGLR to conduct the business or govern the corporate affairs of AGLR or any of its subsidiaries after the closing in a manner that is adverse to AGLR or any of these subsidiaries. Adverse conditions shall include, but not be limited to, conditions that are inconsistent with, or in addition to, the conditions, including organizational requirements, currently imposed on AGLR under PUHCA.

**Q. Is AGLR requesting expedited approval of the proposed acquisition?**

A. Yes. We know that due process takes time. Nevertheless, AGLR and NUI are requesting expedited Board approval with a target date for approval of October 31, 2004 due to the unique circumstances of this transaction. In particular, we are asking the Board to consider NUI's liquidity position and the risk that further adverse market conditions could create a material worsening of the company's condition. In the event of a material adverse effect, AGLR is not required to close. Simply put, AGLR wants to take control of the business before anything unexpected can go wrong.

We believe that expedited approval will benefit ETG's ratepayers. First, as discussed in more detail in the testimony of Mr. Matthews, expedited approval is needed so that the integration can be accomplished in time for the winter heating season. Among other things, with AGLR's solid finances supporting NUI, the company may, over time, be able to negotiate gas purchases for the winter heating season on more favorable terms, which may very well redound to the benefit of ratepayers in the form of lower purchased gas costs and less legal entanglement and need for further regulatory approvals.

Second, as discussed in more detail in Mr. Madden's testimony, following approval of the acquisition, AGLR would propose to the Board to immediately credit to ratepayers the outstanding balance of the $28 million refund that ETG agreed to provide to settle issues relating to the Liberty Audit Report.

Last, as discussed in more detail in Mr. O'Brien's testimony, expedited approval is necessary to reduce the possibility of a liquidity crisis at NUI that could be triggered if a payment default or acceleration of indebtedness were to occur under the terms of NUI's financing. Under the terms of the Merger Agreement, AGLR would not be obligated to complete the acquisition if either a payment default or acceleration of indebtedness were to occur.

**Q. Does this conclude your testimony?**

A. Yes.